



NOVA SCOTIA COLLEGE OF CHIROPRACTORS
Privacy Requirements and Policies
for Health Practitioners

Adopted with the
Permission of

THE COLLEGE OF CHIROPRACTORS OF ONTARIO

PRIVACY LEGISLATION – EXECUTIVE SUMMARY

On January 1, 2004, federal privacy legislation covers the private sector in Ontario. The *Personal Information Protection and Electronic Documents Act* will cover:

- any organization (including an individual)
- that collects, uses or discloses personal information (e.g., client charts)
- in the course of engaging in commercial activities (e.g., the private practice of chiropractic).

Most chiropractors in private practice will likely be covered by the Act. To comply with the legislation, you will need to do the following:

1. appoint a privacy officer to oversee the organization's personal information handling practices;
2. set out in writing what kinds of personal information you collect and why (e.g., health assessment are conducted to advise clients and guide treatments);
3. develop a process for obtaining consent to collect, use and disclose personal information and understand when this can be done without consent (e.g., in an emergency, to collect unpaid accounts);
4. identify what personal information may not need to be collected in every case (e.g., social insurance numbers) and then stop collecting it;
5. limit the use and disclosure of personal information as much as is reasonable in your circumstances (e.g., restrict staff access to unnecessary information);
6. ensure that the information you collect is accurate;
7. use appropriate measures to safeguard the personal information you have (e.g., do not use regular e-mail for identifiable client health information);
8. write out your organization's privacy policy and make it available to the public (e.g., put it on your web site);
9. permit individuals to review the personal information you have on them and to correct any errors in that information; and
10. handle any complaints about your information handling practices in a fast and fair way (e.g., investigate the concern and write back with your findings and any changes that you be making as a result of the concern).

The legislation will be enforced by the Information and Privacy Commissioner in Ottawa, who can investigate complaints and conduct intensive investigations of alleged breaches. Breaches can be taken to the Federal Court of Canada that can require correction and publication of information handling practices and can order payment of monetary damages for any humiliation suffered by an individual.

The College has developed some materials (see guide and checklist) to assist chiropractors in bringing themselves into compliance with the new privacy legislation. While this legislation has been imposed without consultation with the College, the College felt that both its members and the public would benefit by having these resources available.

Getting Ready for Privacy Legislation

GUIDE

**Privacy Requirements and Policies for
Health Practitioners**

**PUBLISHED BY THE COLLEGE OF CHIROPRACTORS
OF ONTARIO
NOVEMBER 2003**

This booklet is not intended to provide legal advice. It provides some practical suggestions for how some organizations can review their information handling practices and develop a Privacy Policy. The *Personal Information Protection and Electronic Documents Act* is unclear in a number of areas and is enforced by the federal Information and Privacy Commissioner. Thus, the descriptions provided below are based on current information and may change as experience with the legislation and its enforcement develops. Some provisions in the Act are simplified for the purpose of identifying issues for consideration. For legal advice, please speak to your own lawyer.

Adapted from the work of:
Richard Steinecke
Steinecke Maciura LeBlanc
Barristers & Solicitors

Original Work Copyright © 2003 by Steinecke Maciura LeBlanc
Used with permission

INDEX

	Page
Introduction	4
Step 1 – Designating Your Organization’s Information Officer	5
(a) Identifying Your “Organization”	5
(b) Selecting Your Information Officer	5
Step 2 – Information and Activities Covered by the Privacy Plan	7
(a) Commercial Activities	7
(b) Inventory of Personal Information Collected	7
Step 3 – Collecting Personal Information	10
(a) Principles of Identifying Purposes and Obtaining Consent	10
(b) Primary Purpose and Consent / Other Legal Authority Checklist	11
(c) Related and Secondary Purposes Checklists	12
(d) Principles of Use and Disclosure	12
Step 4 – Safeguards, Retention and Destruction	14
(a) Safeguarding Personal Information	14
(c) Retention and Destruction of Personal Information	14
Step 5 – Access, Correction, Complaints and Openness	15
(a) Access Rights	15
(b) Correction Requests	16
(c) Complaints System	16
(d) Openness	17
Step 6 – Implementing Your Privacy Plan	18
Form 1 Health Consent Form	19
Form 2 Privacy Policy – Generic Form	20
Form 3 Privacy Policy – Health Practitioner Sample Form	23

Introduction

The following document is a simplified, abbreviated and practical description of the requirements of the Personal Information Protection and Electronic Documents Act (PIPEDA). The unique combination of features contained in this checklist is as follows:

- ✓ *a brief, plain language description of the major requirements of the legislation (which does not attempt to be exhaustive)*
- ✓ *organization of the information in an order that helps the reader prepare the required Privacy Policy for the organization*
- ✓ *step-by-step checklists (see accompanying Checklist document) of the requirements and suggestions needed to prepare the required Privacy Policy for the organization*
- ✓ *concrete examples (with emphasis on those appropriate for the health practitioners)*
- ✓ *sample forms*

The emphasis in this document is to help small health offices or other organizations to bring themselves into compliance with PIPEDA. Large organizations may require and have the resources for a formal data flow analysis, extensive assistance by external consultants and a large team of people to balance the competing priorities of different departments. However, there are few practical tools available for small health offices or other organizations.

Completing the checklists will assist an organization to comply with the requirements of PIPEDA. Boxes “” are to be ticked off when appropriate and blanks “_____” are to be filled in where they apply to your organization.

There are six steps to both this Guide and the accompanying Checklist document:

1. *Designating Your Organization’s Information Officer*
2. *Information and Activities Covered by the Privacy Plan*
3. *Collecting Personal Information*
4. *Safeguards, Retention and Destruction*
5. *Access, Corrections, Complaints and Openness, and*
6. *Implementing Your Privacy Plan*

A list of the forms attached to this Guide is as follows:

Form 1 – Health Consent Form

Form 2 – Privacy Policy – Generic Form

Form 3 – Privacy Policy - Health Practitioner Sample Form

Step 1 – Designating Your Organization’s Information Officer

(a) Identifying Your “Organization”

Often it is obvious who or what your organization is. An organization can be:

- ✓ *a single individual (e.g., in a sole proprietorship)*
- ✓ *a partnership*
- ✓ *a corporation*
- ✓ *an association of individuals, partnerships and/or corporations*

Where a number of persons or entities work together, they may choose either to treat themselves as a single “organization” for the purposes of developing one Privacy Policy, or to require each one to develop their own Privacy Policies (e.g., a multidisciplinary office). Similarly, where consultants (e.g., lawyers, accountants, information technology advisors) or outsourced agencies (e.g., database management, marketing, office cleaners, office security, file storage) are used, there may again be a choice as to whether or not to treat them as a part of a single organization.

The advantages of treating various persons or groups as one organization includes the following:

- ✓ *the simplicity of having a single set of rules for everyone*
- ✓ *avoiding the need to enter into contracts with everyone outside of the organization who has access to personal information on your behalf*
- ✓ *simplifying the consent required from those who provide personal information*

The disadvantages of treating various persons or groups as one organization includes the following:

- ✓ *having to monitor the information handling practices of consultants and agencies*
- ✓ *reluctance of consultants and agencies who have multiple clients to be bound by multiple privacy plans*

(b) Selecting Your Information Officer

In order to comply with the Personal Information Protection and Electronic Documents Act (PIPEDA), each organization must designate an individual (or individuals) who is accountable for the organization’s compliance with the privacy obligations. Specific tasks that this “Information Officer” (sometimes called a “Privacy Officer”) is responsible for include the following:

- ✓ *reviewing the organization’s collection, use and disclosure of personal information*
- ✓ *implementing procedures to protect personal information*
- ✓ *being the contact person for client or public inquiries about information handling*
- ✓ *establishing and, in a small organization, operating a complaints procedure*
- ✓ *training and continually updating staff on information Privacy Policy*
- ✓ *monitoring compliance*
- ✓ *publishing the organization’s information handling policies to the public*

Characteristics of a good Information Officer include the following:

- ✓ *a senior position in the organization*
- ✓ *familiarity with how information is collected, stored, used and disclosed in the organization*
- ✓ *experience with human resources or personnel management*
- ✓ *experience with customer relations*
- ✓ *a comfort level with legal matters*

The Information Officer need not be an employee of the organization. It can be the organization's lawyer or an outside privacy consultant. However, for many small offices, it makes sense for the Information Officer to be the owner, senior partner or president.

Step 2 – Information and Activities Covered by the Privacy Plan

The Personal Information Protection and Electronic Documents Act (PIPEDA) applies to any “commercial activities” of the organization that involve “personal information”. It is important to first identify what commercial activities your organization engages in and what personal information it collects, uses and discloses in the course of those activities. Only then can you go to the next step of assessing whether your current information practices require change.

(a) Commercial Activities

The term “commercial activities” is vague and it is unclear as to precisely how far it goes. Little help has been provided to assist those who might be covered by PIPEDA and commentators have taken widely divergent views. Likely, if the organization is non-profit in nature, PIPEDA only applies to activities of the organization that are commercial in nature (e.g., selling or bartering client or membership information, fund raising ventures). However, if the organization is for profit in nature (e.g., a private practice), then almost everything done by the organization is a commercial activity. This is probably true even if the activity is publicly financed (e.g., paid by OHIP, legal aid, or some other government-funded program). (N.B. There remains debate on the issue and you may wish to speak with your lawyer on the matter.)

There are certain commercial activities that are not covered by PIPEDA. These activities are not subject to the personal information handling rules of the Act. Again, there is doubt about the interpretation of some of these exceptions. For example, it is fairly clear that personal information about employees in the provincial sphere (which includes most employees) is probably not covered by the legislation. However, it is not clear whether personal information about the consultants or contract staff used by the organization to provide its commercial activities is covered. To be prudent, organizations should read these exceptions fairly narrowly until some clear rulings have been made.

(b) Inventory of Personal Information Collected

PIPEDA applies only to personal information. Personal information means information about an identifiable individual. Thus, anonymized information, which cannot be matched to an individual, is no longer personal information. Also, information about a partnership or corporation or other business entity is not normally about an individual. It is unclear whether “individual” includes a person who is dead at the time it is collected, an issue that can be quite significant for some organizations (e.g., health facilities).

The information has to be personal in nature. This would obviously include information about health, personal characteristics and family circumstances. However, some information about the professional activities or capacity of an individual is not personal in nature. For example, the prescribing patterns of a physician have been held not to be personal, but rather to be about their professional capacity (this decision is still under judicial review). Other examples of work product information are letters written by employees in the course of their employment, legal opinions or reports prepared by employees for use by management. In addition, specific exemptions are made for the name, title, business contact information such as telephone numbers, office mailing addresses and, presumably, business email addresses. However, other information even though it has business overtones can still be personal in nature, such as the work hours or income of an individual.

Information does not have to be recorded to be personal. Thus, information requested about an individual but not recorded is still personal information. So are live stream cameras (closed circuit TV) even though no tape or other record is made (and thus privacy principles would apply, e.g., people should know they are under surveillance).

The following are examples of personal information.

Personal Characteristics

- Name
- Home contact information
- Identification number (e.g., credit card, social insurance, health, website cookies)
- Insurance benefit coverage
- Identifying features including fingerprints and blood type
- Gender
- Age
- Colour
- Language
- Ethnic or country of origin
- Education or training
- Marital status, sexual history or sexual orientation
- Income
- Social status
- Other: _____
- Other: _____
- Other: _____

Health

- Health history
- Health measurements, samples or examination results
- Health conditions, assessment results, diagnoses
- Health services provided to or received by the person
- Health information collected in the course of providing services
- Prognosis or other opinions formed during assessment and treatment
- Compliance with assessment and treatment
- Reasons for discharge and discharge condition and recommendations
- Bodily donations activities or plans for donations
- Other: _____
- Other: _____
- Other: _____

Activities and Views

- Transaction history with the organization
- Occupation/profession
- Opinions expressed by the person
- Community involvements
- Religion
- Political involvements
- Work hours
- Criminal history
- Disciplinary actions against the individual
- Credit or loan data
- Existence of a dispute with the organization
- Intentions (e.g., to buy goods or services, to change jobs)
- Involvement with organization (e.g., they are a client)
- Letters written to the organization by the person
- Views, evaluations or opinions of the organization about the person
- Other: _____
- Other: _____

Other: _____

Many organizations collect personal information primarily about their clients. However, many organizations also collect personal information about third parties as well. A separate part of the Privacy Policy will apply to each category of individuals for whom personal information is collected. Thus, it is important to identify these categories of individuals. These categories of individuals might include the following:

- clients*
- prospective clients or other members of the general public*
- contract staff (non-employees, volunteers, students)*
- other:* _____
- other:* _____
- other:* _____
- other:* _____

Step 3 – Collecting Personal Information

(a) Principles of Identifying Purposes and Obtaining Consent

Now that you have an idea of the types of personal information your organization handles and the categories of individuals for which you collect the information, you have to ensure that your information handling practices are consistent with privacy principles. Perhaps the most significant privacy principle is that your organization needs to be able to justify why it needs the information and have authority to collect it. Step 3 deals with this privacy duty.

For any type of personal information collected by your organization, you must identify the following:

- ✓ the purposes for which you collect the information,
- ✓ whether you could limit its collection, and
- ✓ by what authority (e.g., consent of the individual, legal exception to the consent requirement) you collect it.

In other words, you must identify the following:

- ✓ The **primary purpose** for collecting this information. The primary use of personal information from clients is generally the provision of the good or service sought by them. The purpose must be documented by the organization (which can be done on this form). The purpose must be one which a reasonable person would consider to be appropriate in the circumstances. You have to balance the description of your purposes so that they are not too general as to be meaningless (e.g., “to enable our organization to operate”) but not so specific as to be overly detailed or unworkable (e.g., “to enable my assistant to assign a file number when making photocopies of documents on your behalf”). The primary purpose for collecting personal information from non-clients (e.g., members of the public) is not always as obvious and will need to be stated.
- ✓ Any **related purposes** for collecting the information. Related purposes support the primary purpose for which the information is gathered (e.g., billing the client if not paid right away, accounting and tax records, follow-up services, etc.). Because some individuals will not immediately think of these purposes, they should be part of the consent process and your Privacy Policy.
- ✓ Any other or **secondary purposes** for the information that are likely to arise. Most organizations have secondary uses for the information, such as quality control (a supervisor reviewing the information to ensure that the employee is performing their job well), marketing future special offers to the client, and regulatory accountability (most professionals and organizations are regulated by a self-governing or government agency that has the right to inspect records and investigate complaints). These should be identified in any consent obtained or in the organization’s Privacy Policy. Where possible (e.g., marketing future special offers) the client should be given a choice to refuse the secondary use.
- ✓ Whether there are steps you can **reasonably take to limit** the collection of personal information. Some information that you currently collect (e.g., social insurance number) may not be necessary to achieve your purposes. If so, you should stop collecting the information. In addition, there may be some information that you do not need to collect every time (e.g., home address and financial information where the client pays at the time of purchase). If so, you should only collect the information if needed. In addition, personal information should only be collected through fair (e.g., without deception) and lawful means.
- ✓ How you will **obtain consent, or other legal authority**, for collecting, using or disclosing the information. The intent of the legislation is that personal information will only be collected with the informed consent of the individual, with rare exceptions. To be informed, the individual has to know how the information will be used. Consent can be verbal, written or implied (e.g., where the individual comes to the organization for a particular good or service and the information is obviously necessary to provide the good or service and the individual voluntarily provides the

information). The form of consent can vary although express consent, particularly in written form, may be preferred when considering the following:

- ✓ the sensitivity of the information (e.g., health information, financial information),
- ✓ the reasonable expectations of the individual, and
- ✓ the context (e.g., a written consent is difficult to obtain over the phone).

Opt out consent forms, requiring action by the individual in order to refuse consent, are frowned upon for sensitive information. Where a person is incapable of consenting (e.g., a child, an incapacitated person), an appropriate substitute can provide the consent (e.g., parent, guardian, spouse, child, power of attorney). You cannot require a client to consent to disclosure of unnecessary information in order to serve another purpose unless that other purpose is specified and legitimate. For example, you cannot require a client to consent to your selling their name and address for marketing purposes if they want to obtain your services; that is tied selling. However, you can require a client to give you reasonable financial information if they are not paying for the good or service at the time because that is reasonably necessary for you to provide them with credit.

Consent can always be withdrawn, in which case future use or disclosure of the information is not permitted if consent is required for it.

The exceptions to obtaining informed consent for collecting personal information include the following:

- ✓ where collection is clearly in the interests of the individual and consent cannot be obtained in a timely way (e.g., a medical emergency),
- ✓ to investigate a breach of a Canadian law or agreement (e.g., a contract) and knowledge or consent would reasonably compromise the investigation,
- ✓ for solely journalistic, artistic or literary purposes, or
- ✓ publicly available information specified in regulation (e.g., telephone directories, professional directories, statutory registries, court or tribunal records and information provided by the individual to newspapers, magazines and books).

(b) Primary Purpose and Consent / Other Legal Authority Checklist

PIPEDA applies to the collecting of personal information about any individual, not just clients of the organization. All of these purposes need to be identified. For each category of individuals about whom the organization collects personal information, identify the primary purposes for collecting it on the Checklist document. This will require you to think about the real reason why you collect the information in the first place.

For example, for a health practitioner, the primary purpose for collecting personal information about a client is to provide goods and services for the client. A health practitioner might say: "Our primary purpose for collecting personal information about you is to provide you with health services." The description of that purpose might be: "We collect information about your health history, your physical condition and function, and your social situation in order to help us assess what your needs are, to advise you of your options and then to provide the health care you choose to have." A second primary purpose might be to obtain a baseline of health and social information so that in providing ongoing health services you can identify changes that are occurring.

For most organizations, it is easier to list the primary purposes by category of individuals for which it collects personal information. The purposes are often very different for each category. However, when it comes to related or secondary purposes, the purposes are generally the same for everyone. For that reason, the Checklists documents are divided into two categories. First, you must identify the primary purposes by category of person about whom you collect the information (i.e., clients, general public, contract staff, others). Second, you must identify the related and secondary purposes for all of the personal information you collect.

(c) Related and Secondary Purposes Checklists

For each related or secondary purpose for which the organization collects personal information, complete a separate Checklist in the accompanying document. See section (a) above for a more detailed discussion of related and secondary purposes. Since related and secondary purposes often apply to many or all categories of individuals about whom the organization collects personal information (e.g., quality control), they have not been separated into categories of individuals like the primary purpose section. However, where the related or secondary purpose applies only to some categories (e.g., only clients are invoiced), this is noted under the subheading: "Limitations in Collection".

(d) Principles of Use and Disclosure

Personal information can only be used or disclosed for the purpose for which it was obtained unless:

- ✓ *a further consent is obtained, or*
- ✓ *there is legal authority to use or disclose the information without consent.*

The new use and the consent or other legal authority to use or disclose it should be documented.

Legal authority to use personal information without consent exists in the following circumstances:

- ✓ *where its collection is clearly in the interests of the individual and consent cannot be obtained in a timely way (e.g., a medical emergency),*
 - ✓ *even if not collected for that purpose, there is an emergency that threatens the life, health or security of an individual,*
- ✓ *where its collection was to investigate a breach of a Canadian law or agreement (e.g., a contract) and knowledge or consent would reasonably compromise the investigation,*
 - ✓ *even if not collected for that purpose, the information is reasonably used for the investigation of a breach of law in Canada or elsewhere,*
- ✓ *publicly available information specified in regulation (e.g., telephone directories, professional directories, statutory registries, court records and information provided by the individual to newspapers, magazines and books), or*
- ✓ *specific research situations (obtain legal advice if you believe this narrow ground may apply).*

Legal authority to disclose personal information without consent exists in the following circumstances:

- ✓ *to the organization's lawyer,*
- ✓ *for debt collection purposes,*
- ✓ *to comply with a subpoena, warrant or court order,*
- ✓ *at the request of a government institution for national security, law enforcement or administration,*
- ✓ *at the initiative of the organization, to provide information to a government institution or a specified investigative body relating to law enforcement or national security,*
- ✓ *at the initiative of a specified investigative body relating to law enforcement,*
- ✓ *where there is an emergency that threatens the life, health or security of an individual so long as the person to whom the information relates is then advised in writing right away,*
- ✓ *publicly available information specified in regulation (e.g., telephone directories, professional directories, statutory registries, court records and information provided by the individual to newspapers, magazines and books),*
- ✓ *to an archive,*
- ✓ *20 years after the death of the people to whom the information relates or after 100 years after the record was made,*
- ✓ *specific research situations (obtain legal advice if you believe this narrow ground may apply), or*
- ✓ *where disclosure is required by law.*

There are a number of gaps in the rules permitting the use and disclosure of information without consent. For example, while the organization can disclose personal information to its consultants, it is not clear that the consultants can always share any personal information he or she collects back to the organization. For example, a health practitioner conducting a third party assessment may be permitted to speak to the subject's family to confirm certain information but not be given permission to release that information back to the third party requesting the assessment. For that reason, it may be advisable to anticipate as much as possible any possible uses and disclosures that the organization is likely to need in the original consent process.

Organizations have a duty to take reasonable measures to ensure that any personal information collected is accurate. PIPEDA provides little guidance as to how to achieve this obligation. Suggestions include:

- ✓ use forms and other standard documents for collecting information that promote the systematic and accurate information,*
- ✓ where feasible, review the information with the individual at the time of collection,*
- ✓ in staff training and policies, emphasize the need for information to be accurate and complete,*
- ✓ if certain information is used regularly, update the information with the individual where possible (although you should not update information if there is no legitimate reason for doing so), and*
- ✓ welcome requests by the individual to review the accuracy, completeness and currency of personal information about them held by the organization.*

PIPEDA is silent over what is to be done with personal information that has been collected before the Act came into force (on January 1, 2004, for most of the private sector). The former Information and Privacy Commissioner takes the position that any further use or disclosure after that date must be in accordance with the Act (in other words, where consent is required, the organization must go back to the individual for consent). In some circumstances, that approach would be unworkable and there is some doubt as to whether the Information and Privacy Commissioner's interpretation is correct.

Step 4 – Safeguards, Retention and Destruction

(a) Safeguarding Personal Information

Organizations must take appropriate measures to safeguard personal information from unauthorized access, disclosure, use or tampering. The nature of those safeguards will vary depending on the sensitivity of the information and the circumstances. However, those safeguards must include the following components:

- ✓ physical measures (e.g., restricted access areas, locked filing cabinets),
- ✓ organizational measures (e.g., need-to-know and other employee policies, security clearances), and
- ✓ technological measures (e.g., passwords, encryption, virus protection, firewalls).

Organizations need to systematically review all of the places where they may temporarily or permanently hold personal information and assess the adequacy of the safeguards. Almost every organization will find that it needs to make changes to their Privacy Policy.

The federal Information and Privacy Commissioner has published some fact sheets on specific aspects of securing personal information. They are located on the Information and Privacy Commissioner website at: <http://www.privcom.gc.ca>. Some of the measures suggested there appear to be unworkable for a small organization. The suggestions listed in the accompanying Checklist document may not go quite as far as the Information and Privacy Commissioner would recommend, but may be achievable by a small organization.

(c) Retention and Destruction of Personal Information

The organization is required to have a retention and destruction policy. Retention of personal information should be sufficient for achieving the purpose and to permit the individual to make reasonable inquiries about the personal information of goods/services provided. However, the information should not be kept for a longer period than is reasonably necessary as that provides greater opportunity for the information to be misused or misappropriated. The emphasis by privacy advocates is to shorten the maximum period to as little as possible. The minimum and maximum retention time must be established by policy. While the minimum and maximum times could vary depending on the type of information in issue, for a small organization, it may not be reasonably possible to establish different categories. For organizations that provide one-shot sales, the period would probably be shorter. For organizations that provide professional services, however, regulators often provide rules or guidelines for retention periods (to facilitate on-going services and reports to clients and regulatory scrutiny) that need to be followed. In addition, organizations will wish to keep information for a reasonable time to protect themselves in case of a lawsuit. Thus, a more conservative approach is to set a minimum retention period of six to seven years for professional services (if that is consistent with regulatory requirements) and a maximum of eight to ten years to permit time for destruction of the records.

Because this period is probably longer than some privacy advocates would like, it would be prudent to include this rationale in the related and secondary purposes statements in Step 3, above.

Destruction of personal information must be done in a secure fashion. Typically this involves shredding of paper, deleting of electronic information and the physical destruction of any computer hard drives or electronic data storage containers when they are discarded.

Organizations can have different retention periods for different categories of personal information if desired.

Step 5 – Access, Correction, Complaints and Openness

(a) Access Rights

Individuals have the right, with rare exceptions, to access the personal information about themselves held by the organization and what the organization has done with it. The essential features of these access rights are as follows:

The Request

- ✓ *the organization can require the request to be made in writing (although verbal requests can be answered)*
- ✓ *the organization must assist the requester, if asked to do so*
- ✓ *the organization can charge a minimal cost (e.g., disbursements, but perhaps not all staff time) so long as the individual is notified in advance and indicates that he or she is not withdrawing the request*

Grounds for Refusing a Request

- ✓ *the organization shall provide the member with access to the information and its use and its disclosure to third parties unless one of the following exceptions exist:*
 - ✓ *the information reveals personal information about a third party except where*
 - ✓ *the information about the third party cannot be severed*
 - ✓ *the third party consents or*
 - ✓ *an individual's life, health or safety is threatened*
 - ✓ *the information relates to a warrant, subpoena, disclosure to a government institution or to an investigative body (these provisions are quite complex and legal advice will be needed by the organization)*
 - ✓ *the information is protected by solicitor and client privilege*
 - ✓ *the information would reveal confidential commercial information, unless it can be severed*
 - ✓ *revealing the information could reasonably be expected to threaten the life or security of another individual unless it can be severed*
 - ✓ *the information was collected without consent to investigate a breach of an agreement or law, but then the organization must inform the Information and Privacy Commissioner of the request in writing*
 - ✓ *the information was generated through a formal dispute resolution process (e.g., a professional complaints procedure, ADR)*
- ✓ *access must be provided, despite a ground of refusal (except for the second ground relating to law enforcement) where the individual's life, health or security is threatened*
- ✓ *reasons should be given for a refusal (except for a refusal on the law enforcement ground) and should outline any recourse that is available*
- ✓ *even if the organization refuses the request, it cannot destroy the information until the individual has had a chance to challenge the refusal*

Providing Access

- ✓ *the organization must respond within 30 days (an extension is possible in certain circumstances)*
- ✓ *as stated above, unless a ground of refusal exists, access must be provided*
- ✓ *the organization should confirm the identity of the individual requesting the information before disclosing it*
- ✓ *the organization needs to take reasonable and necessary steps to ensure that the individual requesting it can understand the information (e.g., explain short forms or codes, provide it in an alternative format where the requester has a sensory disability)*
- ✓ *access relates not just to the personal information held, but also how the organization has used and disclosed it (thus, reasonable records should be kept)*

(b) Correction Requests

An individual has the right to request a correction of erroneous personal information held by the organization. If the organization agrees that an error has been made, it must correct the information and, where appropriate, notify any third parties who have received the wrong information of the correction. Where the individual and the organization cannot agree, then the organization must note the disagreement in its file. Again, the organization should notify any third parties who have received the disputed information of the disagreement, where appropriate. This is one of the more ambiguous obligations under PIPEDA. For example, should the correction obliterate the original entry (organizations whose staff are members of regulated professions should probably not obliterate the original entry as the regulatory body may not approve)? Also, does this apply just to factual information, or does it apply to expressions of opinion as well? Finally, when is it not appropriate to advise third parties who received the information?

(c) Complaints System

The organization is required to develop an internal complaints system and make that system along with other, external recourses publicly available. The internal complaints system must have the following features:

- ✓ *a designated individual in the organization (perhaps the Information Officer) to receive, and ensure the prompt investigation and response to all complaints*
- ✓ *an easily accessible and simple to use complaints procedure that at a minimum includes*
 - ✓ *acknowledging receipt of the complaint*
 - ✓ *investigating the complaint*
 - ✓ *providing a decision with reasons*
- ✓ *the ability for the organization to respond appropriately to complaints that are justified including making changes to its information handling policies*
- ✓ *notifying the public of external recourses including any regulatory body and the federal Information and Privacy Commissioner*

As seen from both the accompanying Checklist document and the Privacy Policy forms (see sample Forms 2 and 3 below), there are a number of choices to be made in designing the best complaints system for your organization.

The federal Information and Privacy Commissioner has oversight of PIPEDA and acts as an ombudsman. The Commissioner has the following responsibilities:

- ✓ *investigating complaints about an organization's personal information handling practices including entering the organization's premises and summoning documents and witnesses*
- ✓ *mediating and conciliating such complaints*
- ✓ *auditing the personal information handling practices of an organization*
- ✓ *making a public report of abuses of personal information by an organization*
- ✓ *seeking remedies for a breach of PIPEDA in the Federal Court of Canada*

Once the Commissioner has issued a report, either the complainant or the Commissioner can then apply to the Federal Court of Canada for one or more of the following remedies:

- ✓ *an order for the organization to correct its personal information handling practices*
- ✓ *an order for the organization to publish a notice of corrective action*
- ✓ *an award of damages for any humiliation of the complainant*

(d) Openness

The organization must make its personal information handling Privacy Policy available to the public. Individuals must be able to obtain this Privacy Policy without unreasonable effort. The Privacy Policy must be generally understandable. The accompanying Checklist document and the Privacy Policy (samples are found at Forms 2 and 3, below) is an attempt to provide the tools for your organization to prepare such a document.

A large organization might have three separate documents:

- ✓ a brochure summarizing the organization's Privacy Policy document*
- ✓ a comprehensive Privacy Policy document*
- ✓ an internal operational guide to assist staff in implementing the Privacy Policy document.*

A smaller organization might simply use one Privacy Policy document.

Step 6 – Implementing Your Privacy Plan

Implementing your Privacy Policy will have two stages. The first stage will be to complete your review of how you handle personal information and to prepare and roll out your Privacy Policy. The second stage is to periodically monitor, review and update your Privacy Policy. During your first year, the monitoring, review and updating should be fairly frequent as issues arise. However, after that, you must regularly review things. The Information and Privacy Commissioner has criticized organizations for having a policy in writing that does not reflect what is actually happening. At a minimum, a specific date should be set each year (e.g., July) to monitor, review and update the Privacy Policy. That annual review should be documented in case the Information and Privacy Commissioner comes calling.

Form 1 Health Consent Form

NOTE TO CLIENT *We want your informed consent. This means that we want you to understand the services we hope to provide to you, the cost involved, and what we do with personal information we obtain about you. If you have a question on any of this, please ask.*

CONSENT FOR TREATMENT

[Insert your usual consent for treatment provisions here.]

CONSENT FOR THE COST OF OUR SERVICES

[Insert your usual financial provisions here.]

CONSENT FOR PERSONAL INFORMATION

I understand that to provide me with *[name of health profession]* goods and services, *[name of your organization]* will collect some personal information about me (e.g., *[set out some common examples like home telephone number, address]*).

I have reviewed the *[name of organization]*'s Privacy Policy about the collection, use and disclosure of personal information, steps taken to protect the information and my right to review my personal information. I understand how the Privacy Policy applies to me. I have been given a chance to ask any questions I have about the Privacy Policies and they have been answered to my satisfaction.

I understand that only if I check off the following boxes will I receive the following: *[insert opt-in clauses where opt-out consent would not be appropriate]*

- I would like to receive notice when it is time to review whether I need new goods or services.
- I would like to receive newsletters and other informational mailings from *[name of organization]*.
- I would like to receive notice of promotions and special offers from *[name of organization]*.
- I would like to receive newsletters and other informational mailings and notice of promotions and special offers from other organizations that *[name of organization]* thinks might be of interest to me.

I understand that, as explained in the Policies and Procedures for Personal Information, there are some rare exceptions to these commitments.

I agree to *[name of organization]* collecting, using and disclosing personal information about me as set out above and in the *[name of organization]*'s Privacy Policy.

SIGNATURE: _____ DATE: _____

PRINTED NAME: _____

NOTES MADE BY *[name of organization]*

Form 2 Privacy Policy – Generic Form

Privacy of personal information is an important principle to *[name of organization]*. We are committed to collecting, using and disclosing personal information responsibly and only to the extent necessary for the goods and services we provide. We also try to be open and transparent as to how we handle personal information. This document describes our privacy policies.

WHAT IS PERSONAL INFORMATION?

Personal information is information about an identifiable individual. Personal information includes information that relates to their personal characteristics (e.g., gender, age, income, home address or phone number, ethnic background, family status), their health (e.g., health history, health conditions, health services received by them) or their activities and views (e.g., religion, politics, opinions expressed by an individual, an opinion or evaluation of an individual). Personal information is to be contrasted with business information (e.g., an individual's business address and telephone number), which is not protected by privacy legislation.

WHO WE ARE

Our organization, *[insert name]*, includes *[describe]*. We use a number of consultants and agencies that may, in the course of their duties, have limited access to personal information we hold. These include *[list them by category or name]*. We restrict their access to any personal information we hold as much as is reasonably possible. We also have their assurance that they follow appropriate privacy principles.

WE COLLECT PERSONAL INFORMATION: PRIMARY PURPOSES

Like all *[name nature of your business]*, we collect, use and disclose personal information in order to serve our clients.

For our clients, the primary purposes for collecting personal information are as follows: *[insert purpose identified by you in Part 3(b) of the checklist]*. Examples of the type of personal information we collect for those purposes include the following: *[insert information compiled by you in Part 3(b) of the checklist]*. *[If you collect personal information about clients without their consent, provide a brief description of when you might do this if at all possible.]*

For members of the general public, our primary purposes for collecting personal information are as follows: *[insert purpose identified by you in Part 3(b) of the checklist]*. Examples of the type of personal information we collect for those purposes include the following: *[insert information compiled by you in Part 3(b) of the checklist]*. *[If you collect personal information about members of the general public without their consent, provide a brief description of when you might do this if at all possible.]*

For contract staff (e.g, temporary workers *[set out other examples]*), our primary purposes for collecting personal information are as follows: *[insert purpose identified by you in Part 3(b) of the checklist]*. Examples of the type of personal information we collect for those purposes include the following: *[insert information compiled by you in Part 3(b) of the checklist]*. *[If you collect personal information about contract staff without their express consent, provide a brief description of when you might do this if at all possible.]*

When we investigate, audit or assess a person for someone else (e.g., *[set out examples such as for a legal investigation, financial audit, medical assessment]*), our primary purposes for collecting personal information are as follows: *[insert purpose identified by you in Part 3(b) of the checklist]*. Examples of the type of personal information we collect for those purposes include the following: *[insert information compiled by you in Part 3(b) of the checklist]*. *[If you collect personal information*

about third parties without their express consent, provide a brief description of when you might do this if at all possible.]

For *[insert other categories, if any]*, our primary purposes for collecting personal information are as follows: *[insert purpose identified by you in Part 3(b) of the checklist]*. Examples of the type of personal information we collect for those purposes include the following: *[insert information compiled by you in Part 3(b) of the checklist]*. *[If you collect personal information about [insert other categories, if any] without their consent, provide a brief description of when you might do this if at all possible.]*

WE COLLECT PERSONAL INFORMATION: RELATED AND SECONDARY PURPOSES

Like most organizations, we also collect, use and disclose information for purposes related to or secondary to our primary purposes. The most common examples of our related and secondary purposes are as follows:

- *[Set out each related or secondary purpose that relates to your organization as identified in Part 3(c) of the checklist. Briefly describe the purpose, identify any additional personal information collected just for that purpose, any limitations in that collection and the authority for this purpose. See Form 3 for a precedent for this section.]*

You can choose not to be part of some of these related or secondary purposes (e.g., by declining special offers or promotions, by paying for your services in advance). We do not, however, have much choice about some of these related or secondary purposes (e.g., external regulation).

PROTECTING PERSONAL INFORMATION

We understand the importance of protecting personal information. For that reason, we have taken the following steps *[change the following points as necessary as set out in part 4(b) of the checklist; see Form 3 for an example]*:

- Paper information is either under supervision or secured in a locked or restricted area.
- Electronic hardware is either under supervision or secured in a locked or restricted area at all times. In addition, passwords are used on computers. All of our cell phones are digital, which signals are more difficult to intercept.
- Paper information is transmitted through sealed, addressed envelopes or boxes by reputable companies.
- Electronic information is transmitted either through a direct line or is anonymized or encrypted.
- Staff are trained to collect, use and disclose personal information only as necessary to fulfill their duties and in accordance with our privacy policy.
- External consultants and agencies with access to personal information must enter into privacy agreements with us.

RETENTION AND DESTRUCTION OF PERSONAL INFORMATION

We need to retain personal information for some time to ensure that we can answer any questions you might have about the services provided and for our own accountability to external regulatory bodies. However, we do not want to keep personal information too long in order to protect your privacy. *[Summarize your retention and destruction policies here as set out in Part 4(c) of the checklist. See Form 3 for an example.]* We keep our client files for about ____ years. Our client and contact directories are much more difficult to systematically destroy, so we remove such information when we can if it does not appear that we will be contacting you again. However, if you ask, we will remove such contact information right away. We keep any personal information relating to our general correspondence with people who are not our clients, newsletters, seminars and marketing activities for about ____ months after the newsletter, seminar or marketing activity is over.

We destroy paper files containing personal information by shredding. We destroy electronic information by deleting it and, when the hardware is discarded, we ensure that the hard drive is physically destroyed. Alternatively, we may send some or all of the client file to our client.

YOU CAN LOOK AT YOUR INFORMATION

With only a few exceptions, you have the right to see what personal information we hold about you. Often all you have to do is ask. We can help you identify what records we might have about you. We will also try to help you understand any information you do not understand (e.g., short forms, technical language, etc.). We will need to confirm your identity, if we do not know you, before providing you with this access. We reserve the right to charge a nominal fee for such requests.

If there is a problem, we may ask you to put your request in writing. If we cannot give you access, we will tell you within 30 days if at all possible and tell you the reason, as best we can, as to why we cannot give you access.

If you believe there is a mistake in the information, you have the right to ask for it to be corrected. This applies to factual information and not to any professional opinions we may have formed. We may ask you to provide documentation that our files are wrong. Where we agree that we made a mistake, we will make the correction and notify anyone to whom we sent this information. If we do not agree that we have made a mistake, we will still agree to include in our file a brief statement from you on the point and we will forward that statement to anyone else who received the earlier information.

DO YOU HAVE A CONCERN?

Our Information Officer, *[insert name]*, can be reached at *[insert contact information]* to address any questions or concerns you might have.

If you wish to make a formal complaint about our privacy practices, you may make it in writing to our Information Officer. S/he will acknowledge receipt of your complaint, ensure that it is investigated promptly and that you are provided with a formal decision and reasons in writing.

For more general inquiries, the Information and Privacy Commissioner of Canada oversees the administration of the privacy legislation in the private sector. The Commissioner also acts as a kind of ombudsman for privacy disputes. The Information and Privacy Commissioner can be reached at:

112 KENT STREET | OTTAWA, ONTARIO | K1A 1H3

PHONE (613) 995-8210 | **TOLL-FREE** 1-800-282-1376 | **FAX** (613) 947-6850 | **TTY** (613) 992-9190

www.privcom.gc.ca

Form 3 Privacy Policy – Health Practitioner Sample Form

Privacy of personal information is an important principle to the Green Sombretherapy Clinic. We are committed to collecting, using and disclosing personal information responsibly and only to the extent necessary for the goods and services we provide. We also try to be open and transparent as to how we handle personal information. This document describes our privacy policies.

WHAT IS PERSONAL INFORMATION?

Personal information is information about an identifiable individual. Personal information includes information that relates to their personal characteristics (e.g., gender, age, income, home address or phone number, ethnic background, family status), their health (e.g., health history, health conditions, health services received by them) or their activities and views (e.g., religion, politics, opinions expressed by an individual, an opinion or evaluation of an individual). Personal information is to be contrasted with business information (e.g., an individual's business address and telephone number), which is not protected by privacy legislation.

WHO WE ARE

Our organization, Green Sombretherapy Clinic, includes at the time of writing three Sombretherapists and four support staff. We use a number of consultants and agencies that may, in the course of their duties, have limited access to personal information we hold. These include computer consultants, office security and maintenance, bookkeepers and accountants, temporary workers to cover holidays, credit card companies, website managers, cleaners and lawyers. We restrict their access to any personal information we hold as much as is reasonably possible. We also have their assurance that they follow appropriate privacy principles.

WE COLLECT PERSONAL INFORMATION: PRIMARY PURPOSES

About Clients

Like all sombretherapists, we collect, use and disclose personal information in order to serve our clients. For our clients, the primary purpose for collecting personal information is to provide sombretherapy treatment. For example, we collect information about a client's health history, including their family history, physical condition and function and social situation in order to help us assess what their health needs are, to advise them of their options and then to provide the health care they choose to have. A second primary purpose is to obtain a baseline of health and social information so that in providing ongoing health services we can identify changes that are occurring over time. It would be rare for us to collect such information without the client's express consent, but this might occur in an emergency (e.g., the client is unconscious) or where we believe the client would consent if asked and it is impractical to obtain consent (e.g., a family member passing a message on from our client and we have no reason to believe that the message is not genuine).

About Members of the General Public

For members of the general public, our primary purposes for collecting personal information are to provide notice of special events (e.g., a seminar or conference) or to make them aware of sombretherapy services in general or our clinic in particular. For example, while we try to use work contact information where possible, we might collect home addresses, fax numbers and email addresses. We try to obtain consent before using any such personal information, but where this is not, for any reason, possible, we will upon request immediately remove any personal information from our distribution list.

On our website we only collect, with the exception of cookies, the personal information you provide and only use that information for the purpose you gave it to us (e.g., to respond to your email

message, to register for a course, to subscribe to our newsletter). Cookies are only used to help you navigate our website and are not used to monitor you.

About Contract Staff, Volunteers and Students

For people who are contracted to do work for us (e.g., temporary workers), our primary purpose for collecting personal information is to ensure we can contact them in the future (e.g., for new assignments) and for necessary work-related communication (e.g., sending out paycheques, year-end tax receipts). Examples of the type of personal information we collect for those purposes include home addresses and telephone numbers. It is rare for us to collect such information without prior consent, but it might happen in the case of a health emergency (e.g., a SARS outbreak) or to investigate a possible breach of law (e.g., if a theft were to occur in the clinic). If contract staff, volunteers or students wish a letter of reference or an evaluation, we will collect information about their work related performance and provide a report as authorized by them.

WE COLLECT PERSONAL INFORMATION: RELATED AND SECONDARY PURPOSES

Like most organizations, we also collect, use and disclose information for purposes related to or secondary to our primary purposes. The most common examples of our related and secondary purposes are as follows:

- ❑ To invoice clients for goods or services that were not paid for at the time, to process credit card payments or to collect unpaid accounts.
- ❑ To advise clients that their product or service should be reviewed (e.g., to ensure a product is still functioning properly and appropriate for their then current needs and to consider modifications or replacement).
- ❑ To advise clients and others of special events or opportunities (e.g., a seminar, development of a new service, arrival of a new product) that we have available.
- ❑ Our clinic reviews client and other files for the purpose of ensuring that we provide high quality services, including assessing the performance of our staff. In addition, external consultants (e.g., auditors, lawyers, practice consultants, voluntary accreditation programs) may on our behalf do audits and continuing quality improvement reviews of our Clinic, including reviewing client files and interviewing our staff.
- ❑ Sombretherapists are regulated by the College of Sombretherapists of Ontario who may inspect our records and interview our staff as a part of their regulatory activities in the public interest. In addition, as professionals, we will report serious misconduct, incompetence or incapacity of other practitioners, whether they belong to other organizations or our own. Also, our organization believes that it should report information suggesting serious illegal behaviour to the authorities. External regulators have their own strict privacy obligations. Sometimes these reports include personal information about our clients, or other individuals, to support the concern (e.g., improper services). Also, like all organizations, various government agencies (e.g., Canada Customs and Revenue Agency, Information and Privacy Commissioner, Human Rights Commission, etc.) have the authority to review our files and interview our staff as a part of their mandates. In these circumstances, we may consult with professionals (e.g., lawyers, accountants) who will investigate the matter and report back to us.
- ❑ The cost of some goods/services provided by the organization to clients is paid for by third parties (e.g., OHIP, WSIB, private insurance, Assistive Devices Program). These third-party payers often have your consent or legislative authority to direct us to collect and disclose to them certain information in order to demonstrate client entitlement to this funding.
- ❑ Clients or other individuals we deal with may have questions about our goods or services after they have been received. We also provide ongoing services for many of our clients over a period of months or years for which our previous records are helpful. We retain our client

information for a minimum of ten years after the last contact to enable us to respond to those questions and provide these services (our regulatory College also requires us to retain our client records).

- ❑ If the Green Sombretherapy Clinic or its assets were to be sold, the purchaser would want to conduct a “due diligence” review of the Clinic’s records to ensure that it is a viable business that has been honestly portrayed to the purchaser. This due diligence may involve some review of our accounting and service files. The purchaser would not be able to remove or record personal information. Before being provided access to the files, the purchaser must provide a written promise to keep all personal information confidential. Only reputable purchasers who have already agreed to buy the organization’s business or its assets would be provided access to personal information, and only for the purpose of completing their due diligence search prior to closing the purchase.

You can choose not to be part of some of these related or secondary purposes (e.g., by declining to receive notice of special events or opportunities, by paying for your services in advance). We do not, however, have much choice about some of these related or secondary purposes (e.g., external regulation).

PROTECTING PERSONAL INFORMATION

We understand the importance of protecting personal information. For that reason, we have taken the following steps:

- ❑ Paper information is either under supervision or secured in a locked or restricted area.
- ❑ Electronic hardware is either under supervision or secured in a locked or restricted area at all times. In addition, passwords are used on computers. All of our cell phones are digital, which signals are more difficult to intercept.
- ❑ Paper information is transmitted through sealed, addressed envelopes or boxes by reputable companies.
- ❑ Electronic information is transmitted either through a direct line or is anonymized or encrypted.
- ❑ Staff are trained to collect, use and disclose personal information only as necessary to fulfill their duties and in accordance with our privacy policy.
- ❑ External consultants and agencies with access to personal information must enter into privacy agreements with us.

RETENTION AND DESTRUCTION OF PERSONAL INFORMATION

We need to retain personal information for some time to ensure that we can answer any questions you might have about the services provided and for our own accountability to external regulatory bodies. However, we do not want to keep personal information too long in order to protect your privacy.

We keep our client files for about ten years. Our client and contact directories are much more difficult to systematically destroy, so we remove such information when we can if it does not appear that we will be contacting you again. However, if you ask, we will remove such contact information right away. We keep any personal information relating to our general correspondence (i.e., with people who are not clients) newsletters, seminars and marketing activities for about six months after the newsletter ceases publication or a seminar or marketing activity is over.

We destroy paper files containing personal information by shredding. We destroy electronic information by deleting it and, when the hardware is discarded, we ensure that the hard drive is physically destroyed. Alternatively, we may send some or all of the client file to our client.

YOU CAN LOOK AT YOUR INFORMATION

With only a few exceptions, you have the right to see what personal information we hold about you. Often all you have to do is ask. We can help you identify what records we might have about you. We will also try to help you understand any information you do not understand (e.g., short forms, technical language, etc.). We will need to confirm your identity, if we do not know you, before providing you with this access. We reserve the right to charge a nominal fee for such requests.

If there is a problem we may ask you to put your request in writing. If we cannot give you access, we will tell you within 30 days if at all possible and tell you the reason, as best we can, as to why we cannot give you access.

If you believe there is a mistake in the information, you have the right to ask for it to be corrected. This applies to factual information and not to any professional opinions we may have formed. We may ask you to provide documentation that our files are wrong. Where we agree that we made a mistake, we will make the correction and notify anyone to whom we sent this information. If we do not agree that we have made a mistake, we will still agree to include in our file a brief statement from you on the point and we will forward that statement to anyone else who received the earlier information.

DO YOU HAVE A QUESTION?

Our Information Officer, Rose Green, can be reached at:

12 Blue Bay Rd. | Pinkville, ON | M9M 9M9
PHONE (613) 555-2121

She will attempt to answer any questions or concerns you might have.

If you wish to make a formal complaint about our privacy practices, you may make it in writing to our Information Officer. She will acknowledge receipt of your complaint, ensure that it is investigated promptly and that you are provided with a formal decision and reasons in writing.

If you have a concern about the professionalism or competence of our services or the mental or physical capacity of any of our professional staff we would ask you to discuss those concerns with us. However, if we cannot satisfy your concerns, you are entitled to complain to our regulatory body:

COLLEGE OF SOMBREOTHERAPISTS OF ONTARIO
 [Address, telephone, fax and email, website information]

This policy is made under the *Personal Information Protection and Electronic Documents Act*. That is a complex Act and provides some additional exceptions to the privacy principles that are too detailed to set out here. There are some rare exceptions to the commitments set out above.

For more general inquiries, the Information and Privacy Commissioner of Canada oversees the administration of the privacy legislation in the private sector. The Commissioner also acts as a kind of ombudsman for privacy disputes. The Information and Privacy Commissioner can be reached at:

112 KENT STREET | OTTAWA, ONTARIO | K1A 1H3
PHONE (613) 995-8210 | **TOLL-FREE** 1-800-282-1376 | **FAX** (613) 947-6850 | **TTY** (613) 992-9190
www.privcom.gc.ca

Getting Ready for Privacy Legislation

CHECKLISTS

**Privacy Requirements and Policies for
Health Practitioners**

**PUBLISHED BY THE COLLEGE OF CHIROPRACTORS
OF ONTARIO
NOVEMBER 2003**

This booklet is not intended to provide legal advice. It provides some practical suggestions for how some organizations can review their information handling practices and develop a Privacy Policy. The *Personal Information Protection and Electronic Documents Act* is unclear in a number of areas and is enforced by the federal Information and Privacy Commissioner. Thus, the descriptions provided below are based on current information and may change as experience with the legislation and its enforcement develops. Some provisions in the Act are simplified for the purpose of identifying issues for consideration. For legal advice, please speak to your own lawyer.

Adapted from the work of:
Richard Steinecke
Steinecke Maciura LeBlanc
Barristers & Solicitors

Original Work Copyright © 2003 by Steinecke Maciura LeBlanc
Used with permission

INDEX

	Page
Introduction	1
Step 1 – Designating Your Organization’s Information Officer	1
(a) Identifying Your “Organization”	1
(b) Selecting your Information Officer	1
Step 2 – Information and Activities Covered by the Privacy Plan	2
(a) Commercial Activities	2
(b) Inventory of Personal Information Collected	2
Step 3 – Collecting Personal Information	4
(a) Principles of Identifying Purposes and Obtaining Consent	4
(b) Primary Purpose and Consent / Other Legal Authority Checklist	4
(c) Related and Secondary Purposes Checklists	13
(d) Principles of Use and Disclosure	24
Step 4 – Safeguards, Retention and Destruction	25
(a) Safeguarding Personal Information	25
(b) Retention and Destruction of Personal Information	29
Step 5 – Access, Correction, Complaints and Openness	30
(a) Access Rights	30
(b) Correction Requests	31
(c) Complaints System	32
(d) Openness	33
Step 6 – Implementing Your Privacy Plan	34

Introduction

Completing the checklists will assist an organization to comply with the requirements of PIPEDA. Boxes “” are to be ticked off when appropriate and blanks “_____” are to be filled in where they apply to your organization. See the accompanying Guide for assistance in completing this Checklist document.

Step 1 – Designating Your Organization’s Information Officer

Date of Privacy Plan: _____

(a) Identifying Your “Organization”

(See Guide)

Name of Organization: _____

List any consultants and agencies included within this organization (where it is not obvious):

(b) Selecting your Information Officer

(See Guide)

Name of Information Officer: _____

Step 2 – Information and Activities Covered by the Privacy Plan

The Personal Information Protection and Electronic Documents Act (PIPEDA) applies to any “commercial activities” of the organization that involve “personal information”. It is important to first identify what commercial activities your organization engages in and what personal information it collects, uses and discloses in the course of those activities. Only then can you go to the next step to assess whether your current information practices require change.

(a) Commercial Activities

(See Guide)

Prudent organizations will act on the assumption that PIPEDA applies to the following unless and until an official interpretation says otherwise (check off the ones that apply to you):

- where the organization is for profit, all activities involving personal information are likely captured, unless an exception listed below applies
- where the organization is not-for-profit, activities that are commercial in nature, including:
 - selling or bartering personal information about clients or members
 - commercial ventures (e.g., space usage or rental, seminars and conferences, sales, auctions or bazaars, operating a product or gift outlet), listed below:
 - _____
 - _____
 - _____
 - _____
 - _____
 - _____
 - _____
 - _____

The following activities are probably exempt from PIPEDA (check off the ones that apply to you):

- information about an employee of the organization (unless the organization is federally regulated, e.g., bank, railway, airline, broadcasting)
- the activities of a federal or a provincial government or their agencies
- information used strictly for personal or household purposes (e.g., your personal phone and address directory so long as they are not also used for work)
- information used strictly for journalistic, artistic or literary purposes (e.g., writing a newspaper article or book about another person).

(b) Inventory of Personal Information Collected

(See Guide)

See the Guide for a discussion of the type of information that is considered personal information. If your organization collects personal information in the course of its

commercial activities, continue on with the Guide. If your organization does not collect personal information in the course of its commercial activities, you are not covered by the privacy act. Check which of the following applies to you.

- Our organization collects personal information in the course of its commercial activities
- Our organization does not collect personal information in the course of its commercial activities

Step 3 – Collecting Personal Information

(a) Principles of Identifying Purposes and Obtaining Consent

(See Guide)

See the Guide for a discussion of these principles. You will need to know the difference between a primary purpose and a secondary/related purpose for the use of personal information before completing sections (b) and (c) below.

(b) Primary Purpose and Consent / Other Legal Authority Checklist

(See Guide)

PIPEDA applies to the collecting of personal information about any individual, not just clients of the organization. All of these purposes need to be identified. For each category of individuals about whom the organization collects personal information identify the primary purposes for collecting it on the following pages of this checklist. This will require you to think about the real reason why you collect the information in the first place.

CLIENTS

(See examples of primary purposes on Form 3, at the back of the Guide)

Primary Purpose #1 _____

Brief Description of the Purpose _____

Primary Purpose #2 _____

Brief Description of the Purpose _____

Authority to collect information for this purpose (check all that apply):

- Implied consent
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Identify personal information below that is reasonably necessary to achieve the purpose:

PERSONAL CHARACTERISTICS

- Name
- Home contact information
- Identification number (e.g., credit card, social insurance, health, website cookies)
- Insurance benefit coverage
- Identifying features including fingerprints
- Gender
- Age
- Colour
- Language
- Ethnic or country of origin
- Education or training
- Marital status, sexual history or sexual orientation
- Income
- Social status
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

HEALTH

- Health history
- Health measurements, samples or examination results
- Health conditions, assessment results, diagnoses
- Health services provided to or received by the person
- Health information collected in the course of providing services
- Prognosis or other opinions formed during assessment and treatment
- Compliance with assessment and treatment
- Reasons for discharge and discharge condition and recommendations

- Bodily donations activities or plans for donations
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

ACTIVITIES AND VIEWS

- Transaction history with the organization
- Occupation/profession
- Opinions expressed by the person
- Community involvements
- Religion
- Political involvements
- Work hours
- Criminal history
- Disciplinary actions against the individual
- Credit or loan data
- Website cookies
- Existence of a dispute with the organization
- Intentions (e.g., to buy goods or services, to change jobs)
- Involvement with organization (e.g., they are a client)
- Letters written to the organization by the person
- Views, evaluations or opinions by organization about the person
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

GENERAL PUBLIC

(See examples of primary purposes on Form 3, at the back of the Guide)

Primary Purpose #1 _____

Brief Description of the Purpose _____

Primary Purpose #2 _____

Brief Description of the Purpose _____

Authority to collect information for this purpose (check all that apply):

- Implied consent
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Identify personal information below that is reasonably necessary to achieve the purpose:

PERSONAL CHARACTERISTICS

- Name
- Home contact information
- Identification number (e.g., credit card, social insurance, health, website cookies)
- Insurance benefit coverage
- Identifying features including fingerprints
- Gender
- Age
- Colour
- Language
- Ethnic or country of origin
- Education or training
- Marital status, sexual history or sexual orientation
- Income
- Social status
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

HEALTH

- Health history
- Health measurements, samples or examination results
- Health conditions, assessment results, diagnoses
- Health services provided to or received by the person
- Health information collected in the course of providing services
- Prognosis or other opinions formed during assessment and treatment
- Compliance with assessment and treatment
- Reasons for discharge and discharge condition and recommendations

- Bodily donations activities or plans for donations
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

ACTIVITIES AND VIEWS

- Transaction history with the organization
- Occupation/profession
- Opinions expressed by the person
- Community involvements
- Religion
- Political involvements
- Work hours
- Criminal history
- Disciplinary actions against the individual
- Credit or loan data
- Website cookies
- Existence of a dispute with the organization
- Intentions (e.g., to buy goods or services, to change jobs)
- Involvement with organization (e.g., they are a client)
- Letters written to the organization by the person
- Views, evaluations or opinions by organization about the person
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

CONTRACT STAFF

(Non-employee Staff, Volunteers, Students)

(See examples of primary purposes on Form 3, at the back of the Guide)

PRIMARY PURPOSE #1 _____

BRIEF DESCRIPTION OF THE PURPOSE _____

PRIMARY PURPOSE #2 _____

BRIEF DESCRIPTION OF THE PURPOSE _____

Authority to collect information for this purpose (check all that apply):

- Implied consent
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Identify personal information below that is reasonably necessary to achieve the purpose:

PERSONAL CHARACTERISTICS

- Name
- Home contact information
- Identification number (e.g., credit card, social insurance, health, website cookies)
- Insurance benefit coverage
- Identifying features including fingerprints
- Gender
- Age
- Colour
- Language
- Ethnic or country of origin
- Education or training
- Marital status, sexual history or sexual orientation
- Income
- Social status
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

HEALTH

- Health history
- Health measurements, samples or examination results
- Health conditions, assessment results, diagnoses
- Health services provided to or received by the person
- Health information collected in the course of providing services
- Prognosis or other opinions formed during assessment and treatment
- Compliance with assessment and treatment
- Reasons for discharge and discharge condition and recommendations

- Bodily donations activities or plans for donations
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

ACTIVITIES AND VIEWS

- Transaction history with the organization
- Occupation/profession
- Opinions expressed by the person
- Community involvements
- Religion
- Political involvements
- Work hours
- Criminal history
- Disciplinary actions against the individual
- Credit or loan data
- Website cookies
- Existence of a dispute with the organization
- Intentions (e.g., to buy goods or services, to change jobs)
- Involvement with organization (e.g., they are a client)
- Letters written to the organization by the person
- Views, evaluations or opinions by organization about the person
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

OTHER CATEGORY OF INDIVIDUALS _____

PRIMARY PURPOSE #1 _____

BRIEF DESCRIPTION OF THE PURPOSE _____

PRIMARY PURPOSE #2 _____

BRIEF DESCRIPTION OF THE PURPOSE _____

Authority to collect information for this purpose (check all that apply):

- Implied consent
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Identify personal information below that is reasonably necessary to achieve the purpose:

PERSONAL CHARACTERISTICS

- Name
- Home contact information
- Identification number (e.g., credit card, social insurance, health, website cookies)
- Insurance benefit coverage
- Identifying features including fingerprints
- Gender
- Age
- Colour
- Language
- Ethnic or country of origin
- Education or training
- Marital status, sexual history or sexual orientation
- Income
- Social status
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

HEALTH

- Health history
- Health measurements, samples or examination results
- Health conditions, assessment results, diagnoses
- Health services provided to or received by the person
- Health information collected in the course of providing services
- Prognosis or other opinions formed during assessment and treatment
- Compliance with assessment and treatment
- Reasons for discharge and discharge condition and recommendations

- Bodily donations activities or plans for donations
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

ACTIVITIES AND VIEWS

- Transaction history with the organization
- Occupation/profession
- Opinions expressed by the person
- Community involvements
- Religion
- Political involvements
- Work hours
- Criminal history
- Disciplinary actions against the individual
- Credit or loan data
- Website cookies
- Existence of a dispute with the organization
- Intentions (e.g., to buy goods or services, to change jobs)
- Involvement with organization (e.g., they are a client)
- Letters written to the organization by the person
- Views, evaluations or opinions by organization about the person
- Other _____
- Other _____
- Other _____
- Other _____
- Other _____

(c) Related and Secondary Purposes Checklists

(See Guide)

For each related or secondary purpose for which the organization collects personal information, complete a separate checklist below.

The first few samples are pre-completed. These apply to common purposes that recur for many organizations. Make any changes required for your organization. Some of the pre-completed samples (e.g., special offers and promotions) may not apply at all to your organization. These pre-completed sample provisions are followed by some blank forms for you to complete for any other related or secondary purposes your organization might have.

Related and Secondary Purpose #1: Invoicing and Collection

Brief Description: To invoice clients for goods/services that are not paid for at the time and to collect unpaid accounts.

Personal Information Collected (that is not already collected as a part of the primary purpose):

- Home address
- Employer
- Credit check
- Description of service/product provided
- Other:

Limitations in Collection: Appropriate only for clients who have not paid at the time of the service or delivery of good or who pay by personal cheque.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise (if payment not made)
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #2: Recall Visits

Brief Description: To advise clients that their product or service should be reviewed (e.g., to ensure a product is still functioning properly and appropriate for their then current needs and to consider modifications or replacement).

Personal Information Collected (that is not already collected as a part of the primary purpose):

- Home contact information
- Employer
- Other:

Limitations in Collection: Appropriate for all clients.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #3: Special Events and Opportunities

Brief Description: To advise clients and others of special events and opportunities (e.g., a seminar or conference) that we have available.

Personal Information Collected (that is not already collected as a part of the primary purpose):

- Home contact information
- Employer
- Other:

Limitations in Collection: Appropriate for all clients and members of the public.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #4: Quality Control and Risk Management

Brief Description: Our organization reviews client and other files for the purpose of ensuring that we provide high quality services, including assessing the performance of our staff. In addition, external consultants (e.g., auditors, lawyers, practice consultants, voluntary accreditation programs) may on our behalf do audits and continuing quality improvement reviews of our organization, including reviewing client files and interviewing our staff.

Personal Information Collected (that is not already collected as a part of the primary purpose): Usually none. In rare cases, our organization or our consultants may make inquiries to verify that the information we have about you is accurate.

Limitations in Collection: Appropriate for all categories of individuals from whom we collect personal information.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #5: External Regulation

Brief Description: Our organization, or its professional staff, is regulated by _____ who may inspect our records and interview our staff as a part of their regulatory activities in the public interest. In addition, as professionals, we will report serious misconduct, incompetence or incapacity of other practitioners, whether they belong to other organizations or our own. Also, our organization believes that it should report information suggesting serious illegal behaviour to the authorities. External regulators have their own strict privacy obligations. Sometimes these reports include personal information about our clients, or other individuals, to support the concern (e.g., improper services). Also, like all organizations, various government agencies (e.g., Canada Customs and Revenue Agency, Information and Privacy Commissioner, Human Rights Commission, etc.) have the authority to review our files and interview our staff as a part of their mandates. In these circumstances, we may consult with professionals (e.g., lawyers, accountants) who will investigate the matter and report back to us.

Personal Information Collected (that is not already collected as a part of the primary purpose): Usually none. In rare cases, our organization or our consultants may make inquiries to verify that the information we have about you is accurate.

Limitations in Collection: Appropriate for all categories of individuals from whom we collect personal information.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #6: Third Party Billing

Brief Description: The cost of some goods/services provided by the organization to clients is paid for by third parties (e.g., private insurance, government funding). These third party payers often have your consent or legislative authority to direct us to collect and disclose to them certain information in order to demonstrate client entitlement to this funding.

Personal Information Collected (that is not already collected as a part of the primary purpose):

Limitations in Collection: Appropriate only for clients receiving goods/services paid for by third parties.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #7: Responding to Questions

Brief Description: Clients or other individuals we deal with may have questions about our goods/services after they have been received. We also provide ongoing services for many of our clients over a period of months or years for which previous records are helpful. We retain our client information for a minimum of ten years after the last contact to enable us to respond to those questions and provide these services. We destroy our information ten years after the last entry (or, where we know, after the individual turns 18) at the first reasonable opportunity in order to reduce the risk of accidental or inadvertent disclosure.

Personal Information Collected (that is not already collected as a part of the primary purpose): _____

Limitations in Collection: NA. This is a use of information that is already collected.

Authority to Collect information for this purpose: NA. This is a use of information that is already collected.

Related and Secondary Purpose #8: Security Camera

Brief Description: The organization uses a security camera to safeguard its staff and clients, the premises and its records. The images are stored for a period of _____ before being destroyed. The information is not used for any other purpose.

Personal Information Collected (that is not already collected as a part of the primary purpose): videotaped image of persons visiting the office.

Limitations in Collection: only those who visit our office.

Authority to Collect information for this purpose:

- Implied consent (through sign in the waiting area)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #9: Sale of Business

Brief Description: If the organization or its assets were to be sold, the purchaser would want to conduct a “due diligence” review of the organization’s records to ensure that it is a viable business that has been honestly portrayed to the purchaser. The purchaser would not be able to remove or record personal information. Before being provided access to the files, the purchaser must provide a written promise to keep all personal information confidential. Only reputable purchasers who have already agreed to buy the organization’s business or its assets would be provided access to personal information, and only for the purpose of completing their due diligence search prior to closing the purchase.

Personal Information Collected (that is not already collected as a part of the primary purpose). This due diligence may involve some review of our accounting and service files. _____

Limitations in Collection: NA. This is a use of information that is already collected.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #10: _____

Brief Description: _____

Personal Information Collected (that is not already collected as a part of the primary purpose): _____

Limitations in Collection: _____.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #11: _____

Brief Description: _____

Personal Information Collected (that is not already collected as a part of the primary purpose): _____

Limitations in Collection: _____.

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

Related and Secondary Purpose #12: _____

Brief Description: _____

Personal Information Collected (that is not already collected as a part of the primary purpose): _____

Limitations in Collection: _____

Authority to Collect information for this purpose:

- Implied consent (rarely appropriate for related or secondary purposes)
- Verbal consent that will be documented
- Written consent
- Collection in interests of person and timely consent not possible
- Investigation of breach of law/contract and consent would compromise
- Solely for journalistic, artistic or literary purpose
- Publicly available information specified in regulation

(d) Principles of Use and Disclosure

See the Guide for a discussion of these principles and then double check that the above information is accurate and complete.

Step 4 – Safeguards, Retention and Destruction

(a) Safeguarding Personal Information

(See Guide)

Complete the checklist below. Place a “✓” in the box if the organization currently uses the safeguard. Place an “X” in the box if the organization should begin to use the safeguards. It is not necessary to employ every safeguard listed; a selection of safeguards is offered but not all are appropriate for every case. (Indeed, some of the options listed are inconsistent alternatives.) In addition to the generic safeguards described below, special safeguards may be required for extremely sensitive information.

Location of Paper Information

- office areas restricted to staff
 - policy that no non-staff permitted without continuous monitoring
 - policy that all files be locked away before non-staff are permitted entry (e.g., after hours)
 - policy that all non-staff who require access (e.g., cleaners) must sign confidentiality agreements
 - other: _____
- office areas open to non-staff
 - policy that area be supervised at all times
 - policy that all files containing personal information be locked away when staff are not present (e.g., after hours)
 - other: _____
- while in transit to another location
 - policy that in personal custody of staff at all times during transit
 - policy that must be locked away out of sight while unattended (e.g., trunk of car, locked room or filing cabinet when information taken home)
 - other: _____
- home office
 - policy that must be locked away in a desk, filing cabinet or separate room while unattended and that no other person has a key
 - other: _____

Location of Electronic Information

- office areas restricted to staff
 - policy that no non-staff permitted without continuous monitoring
 - for larger organizations, use security badges and sign in sheets
 - policy that all non-staff who require access (e.g., cleaners) must sign confidentiality agreements
 - password protection for each terminal
 - password protection for screen saver on each terminal

- for more sophisticated networks, unique user identifiers, audit trails, and intrusion detection systems
- for wireless networks, consult an expert for appropriate safeguards for your context
- other: _____
- office areas open to non-staff
 - policy that area be supervised at all times
 - policy that no personal information can be left on screen when staff leave terminal
 - password protection for each terminal
 - password protection for screen saver on each terminal
 - other: _____
- while portable computer in transit to another location
 - policy that in personal custody of staff at all times during transit
 - policy that must be locked away out of sight while unattended (e.g., trunk of car, locked room or filing cabinet when information taken home)
 - password protection for portable computer
 - other: _____
- cell phones
 - use digital cell phones only, as those conversations are more difficult to intercept
 - do not use identifying information in cell phone conversations
 - other: _____
- home office
 - policy that must be locked away in a desk, filing cabinet or separate room while unattended and that no other person has a key
 - password protection for portable computer
 - other: _____

Transfer of Paper Information

- in sealed envelope, marked private and confidential, sent by Canada Post or reputable courier
- in sealed envelope, marked private and confidential, delivered by staff
- in sealed envelope to be picked up by person who asks for it by name of recipient (files kept out of sight in reception area until picked up)
- other: _____

Transfer of Electronic Information

- through a direct line that is password protected
- through email or other internet communication in one of the following circumstances:
 - with the consent of the person to whom the personal information relates (e.g., the client requests email communication)
 - where the message is anonymized

- encryption is used
- through fax with a cover sheet identifying the recipient with privacy clause on it and one of the following safeguards:
 - the fax number has been approved by the recipient
 - the recipient has advised that the fax machine is securely located and there is no basis to doubt the assurance
 - in the context the privacy of the recipient of the fax can reasonably be inferred (e.g., it is to an organization that is expected to keep information private like a legal, accounting or health care office)
 - the recipient has a Privacy Policy
 - your incoming fax machine is securely located
- through a disk, CD or other storage medium that is treated with the same safeguards as a transfer of paper information
- website use of personal information is:
 - encrypted
 - appropriate website cookies policy
 - Other: _____
- other: _____

General Safeguards

- staff (including temporary workers) are trained in the following:
 - the importance of the privacy of personal information
 - access to personal information within the organization is on a need-to-know basis
 - the organization's Privacy Policy on information handling, including obtaining consent before collecting, only using information for the purpose for which the consent was provided, the organization's safeguards, access and correction rights, the complaints process and the name of the Information Officer for the organization
 - sensitivity in collecting or using personal information verbally where others might overhear
 - when providing copies of personal information internally or externally, to remove or mask unnecessary personal information
 - to recognize and avoid being "pumped" for information
 - to ensure that any personal information is not accidentally discarded in the regular garbage or blue box disposal system, but rather is shredded
 - to avoid discussing personal information in public places (e.g., elevators, restaurants, washrooms, public transit)
 - that a breach of the organization's policies will result in discipline up to and including dismissal
- regular (at least annual) review and updating of staff through a continuing education program
- privacy and security agreements with the following consultants and outsourced providers
 - temporary workers

- cleaners
- information technology
- marketers
- legal
- bookkeeping and accounting
- file storage
- credit card companies
- website manager
- office security
- building maintenance
- landlord
- other: _____
- other: _____
- other: _____
- regular and systematic monitoring of compliance with the organization's policies by the Information Officer or his or her delegate (which should be documented)
- regular reminders to staff to change their passwords
- regular and systematic auditing of the electronic safeguards by an external company (which should be documented)
- a policy to notify individuals where their personal information is misused or misappropriated
- review physical layout and procedures appropriate to the context (e.g., use rooms rather than cubicles or curtains for sensitive interviews, keep people in the waiting room for as short a time as possible, security system)
- other: _____

(b) Retention and Destruction of Personal Information

(See Guide)

Retention Policy for Client Files (from last use):

- minimum retention period: _____
(working notes and unnecessary copies can be destroyed earlier so long as the main record containing the information is retained)
- maximum retention period: _____

Retention Policy for General Correspondence (not related to a specific client) Newsletters, Seminars and Marketing Activities (from last use):

- minimum retention period: _____
(working notes and unnecessary copies can be destroyed earlier so long as the main record containing the information is retained)
- maximum retention period: _____

Retention Policy for Client and Contact Directories:

- minimum retention period: upon request by client or contact to remove information, or _____
(working notes and unnecessary copies can be destroyed earlier so long as the main record containing the information is retained)
- maximum retention period: indefinitely (impractical to regularly and systematically replace information, especially since most of the information is often business contact information)

Retention Policy for _____ Files:

- minimum retention period: _____
(working notes and unnecessary copies can be destroyed earlier so long as the main record containing the information is retained)
- maximum retention period: _____

Retention Policy for _____ Files:

- minimum retention period: _____
(working notes and unnecessary copies can be destroyed earlier so long as the main record containing the information is retained)
- maximum retention period: _____

Destruction of personal information

- shredding (paper files)
- deletion (electronic records where hard drive or storage vehicle is retained)
- physical destruction (where hard drive or storage vehicle for electronic information is being discarded)
- return all or part of the file to client
- other: _____

Step 5 – Access, Correction, Complaints and Openness

(a) Access Rights

(See Guide)

Complete the checklist below. Place a “✓” in the box if the organization currently follows the access requirement. Place an “X” in the box if the organization needs to make a change in the area.

- staff know where to refer a request or inquiry for access if they are not able to answer it themselves
- the organization provides access upon request within 30 days unless a ground of refusal exists
 - the organization provides access to not just the personal information held, but also to how the organization has used and disclosed it (thus, reasonable records should be kept)
 - the organization keeps reasonable records of any unusual uses or disclosure of personal information (e.g., systematically filing a cover letter, fax sheet or email in the relevant file)
- the organization either charges no fee or has a fee schedule of minimal fees to handle such a request
- the organization’s grounds for refusing an access request are consistent with those mentioned above
 - the organization provides reasons for any refusal of a request and describes any recourse that is available
- the organization confirms the identity of the individual requesting the information before disclosing it
- the organization takes reasonable and necessary steps to ensure that the individual requesting it can understand the information (e.g., explain short forms or codes, provide it in an alternative format where the requester has a sensory disability)

(b) Correction Requests

(See Guide)

Complete the checklist below. Place a “✓” in the box if the organization currently follows the correction requirement. Place an “X” in the box if the organization needs to make a change in the area.

- the organization has a process for handling correction requests that is fair to the individual, the organization (e.g., where the request relates to an expression of opinion by the organization) and the person making the entry (e.g., consulting with the person making the entry)
- corrections are made without obliterating the original entry or, failing that, a notice of the disagreement is filed with the record
- corrections or notice of the disagreement are sent to third parties who have received the erroneous information unless doing so is not appropriate
- the individual is given a timely response to a request to correct, along with reasons for any refusal to do so and notice of any recourse

(c) Complaints System

(See Guide)

Complete the following checklist for your organization's complaints system:

- the designated individual to receive complaints is:
 - the Information Officer
 - other: _____
- the designated individual to investigate complaints is:
 - the Information Officer
 - the individual designated by the Information Officer to investigate that particular complaint
 - other: _____
- the designated individual to decide the complaint is:
 - the Information Officer
 - the individual designated by the Information Officer to investigate that particular complaint
 - the CEO/President/Senior Partner of the organization
 - other: _____
- the individual who decides the complaint has the authority to do the following:
 - to ensure compliance with the organization's policies in respect of the complaint
 - to change the organization's information handling policies (after consultation with other leaders of the organization)
 - to award a refund, credit or financial compensation to the individual (after consultation with other leaders of the organization)
 - other: _____
- external bodies that a complainant can go to for recourse are as follows:
 - the following regulatory body(ies) for the organization or members of the organization: _____

 - the federal Information and Privacy Commissioner
 - other: _____

(d) Openness
(See Guide)

Complete the following checklist to select the ways that would be appropriate for your organization to make its Privacy Policy available to the public (again, it is not necessary to use each of these measures):

- staff are trained to provide the Privacy Policy document to anyone who requests it
- the Privacy Policy document will be posted in the reception area(s) of our organization
- the Privacy Policy document will be posted on our organization's website
- the Privacy Policy document will be sent to our ongoing clients
- the Privacy Policy document will be provided to each new client at the time the consent form is signed
- a brochure summarizing the Privacy Policy document will be sent to our ongoing clients
- a brochure summarizing the Privacy Policy document is provided to each new client at the time the consent form is signed
- other: _____

Step 6 – Implementing Your Privacy Plan

It is now time to prepare your organization's Consent Form and Privacy Policy. Use the samples found at the end of the Guide to assist you. The information needed to complete these documents should be found in the above checklists.

Once this is done, use the following checklist to track the implementation of your organization's privacy plan.

Initial

- Consent form (Form 1) prepared
- Privacy Policy document (Form 2) prepared
- Initial staff training completed
- Contracts with external consultants and outsourcing providers completed and returned with signatures
- Privacy Policy document posted publicly

Ongoing

- Monitoring compliance with Privacy Policy document (prepare a report annually) is scheduled
- External information technology audit (annual) is scheduled
- Refresher training session for all staff (annual) is scheduled
- Review and update of Privacy Policy document (annual) is scheduled